

\*\*E-Filed 4/17/08\*\*

NOT FOR CITATION  
IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

LOIS E. ANDELIN,

Plaintiff,

v.

MICHAEL J. ASTRUE<sup>1</sup>,  
Commissioner,  
Social Security Administration,

Defendant.

Case Number C 07-00675 JF

ORDER<sup>2</sup> AMENDING ORDER  
GRANTING SUMMARY  
JUDGMENT; AND DENYING  
PLAINTIFF'S REQUEST FOR LEAVE  
TO FILE A MOTION FOR  
RECONSIDERATION

[re: docket nos. 15 and 17]

On March 28, 2008, the Court issued an order granting summary judgment for Defendant, and entered judgment for Defendant and against Plaintiff. On April 7, 2008, Plaintiff submitted a request for leave to file a motion for reconsideration, asserting that this Court applied the wrong legal standard in analyzing the adverse credibility determination of the Administrative Law Judge ("ALJ").

<sup>1</sup> Michael J. Astrue became Commissioner of the Social Security Administration on February 1, 2007.

<sup>2</sup> This disposition is not designated for publication and may not be cited.

1 The Court thanks Plaintiff's counsel for bringing this matter to light. Applying the  
2 appropriate legal standard, the Court remains of the opinion that Defendant is entitled to  
3 summary judgment. The Court's order recites several of the reasons articulated by the ALJ in  
4 reaching her decision. Based upon its review of the record, the Court concludes that those  
5 reasons were specific, clear and convincing. *See Lingenfelter v. Astrue*, 504 F.3d 1028, 1036  
6 (9th Cir. 2007) (holding that when there is objective medical evidence of an underlying  
7 impairment and no evidence of malingering, the ALJ must state specific, clear and convincing  
8 reasons for rejecting a claimant's subjective pain testimony).

9 In light of the foregoing, the order granting Defendant's motion for summary judgment is  
10 hereby AMENDED as follows: at original page 6, line 17, replace the sentence beginning  
11 "According" with the following sentence: "Moreover, these reasons are specific, clear and  
12 convincing. *See Lingenfelter v. Astrue*, 504 F.3d 1028, 1036 (9th Cir. 2007) (holding that when  
13 there is objective medical evidence of an underlying impairment and no evidence of malingering,  
14 the ALJ must state specific, clear and convincing reasons for rejecting a claimant's subjective  
15 pain testimony)."

16 Given this disposition, no purpose would be served by permitting Plaintiff to file a formal  
17 motion for reconsideration. Accordingly, Plaintiff's request for leave to file a motion for  
18 reconsideration is DENIED.

19  
20 DATED: 4/17/08

  
JEREMY FOCHEL  
United States District Judge

1 This Order has been served upon the following persons:

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